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# LINCOLN AND THE MATSON NEGROES.

## A VISTA INTO THE FUGITIVE-SLAVE DAYS.

BY JESSE W. WEIK.

**L**ONG after the close of the late war in the United States the law of the sovereign State of Illinois contained this heartless provision :

No black or mulatto person shall be permitted to reside in this State until such person shall produce to the County Commissioners' Court, where he or she is desirous of settling, a certificate of his or her freedom ; which certificate shall be duly authenticated in the same manner that is required to be done in the cases arising under the acts and judicial proceedings of other States. And until such person shall have given bond with sufficient security to the people of this State for the use of the proper county, in the penal sum of one thousand dollars, conditioned that such person will not at any time become a charge to said county or any other county of this State as a poor person, and that such person shall at all times demean himself or herself in strict conformity with the laws of this State that now or may hereafter be enacted, it shall not be lawful for such free negro or mulatto to reside in this State.

Another section read :

If any person shall harbor such negro or mulatto aforesaid, not having such certificate thereof, or shall hire or in any way give sustenance to such negro or mulatto not having such certificate of freedom, and not having given bond, shall be fined in the sum of five hundred dollars, one-half thereof to the use of the county, and the other half to the party giving information thereof.

Although Illinois was adjoined on two sides by slave territory, yet prosecutions for violations of this odious statute, commonly known as the Black Law, were of rare occurrence within her borders. Owen Lovejoy, who drank so deeply and persistently at the fountain of Abolitionism that he has been compared to Otis, the "flame of fire" in colonial days, brought down upon himself the mighty arm of the law for "harboring a certain fugitive slave girl named Agnes." This occurred as early as May, 1842 ; and early in the following October he was again indicted for the same offence in connection with "a certain negro girl named Nance," in the circuit court of Bureau County, Illinois. Aside, however, from the intervention of the law which men of his violent stripe provoked by their persistent hostility and defiant attitude, we find but little evidence of the enforcement of this statute in the existing court records of the State.

It has been the privilege of the writer, however, after a laborious search among records, to unearth one suit for a violation of the Black Law which, but for the subsequent fame of one of its participants,



might have remained buried under the dust of ever-deepening forgetfulness. In order properly to appreciate the story of this suit it will be necessary to relate a few antecedent facts.

Early in 1843 Robert Matson, unmarried and well connected by family ties at his home in Bourbon County, Kentucky, purchased a large tract of land in the northeastern portion of Coles County, Illinois, subsequently known as Black Grove. True to the Kentucky custom of that day, he proceeded to "stock" his new purchase with the due proportion of slaves for farm labor and household purposes. After the crops had been gathered and when the year neared its close he returned the negroes to Kentucky, and speedily replaced them with another contingent from the same locality, under the impression, then prevalent, that by making frequent changes each instalment would, if interrupted by officers of the law, be held to be *in transitu* and thus not lose their legal status as slaves or acquire any of the rights of freemen by having been in the State of Illinois.

One negro, named Anthony Bryant, he permitted to acquire his freedom by remaining over from year to year, and he, by reason of his continuous service, was permitted to officiate as foreman or overseer. This negro, taking advantage of the opportunities which his advanced position gave him, made some attempts at an education, and had so far progressed in that direction as to be able, "by keeping his forefinger on the line, to spell his way slowly through the Bible"; and at religious gatherings he was often allowed to exercise the functions of exhorter, or local preacher. This son of Ham had a wife and four children, who formed part of the contingent of negroes which had arrived from Kentucky early in the year 1847.

These latter, at the end of their sojourn, would, doubtless, have returned to their former home beyond the Ohio as willingly as their predecessors had gone, but for the officious intervention of Matson's housekeeper, a white woman named Mary Corbin, whom the former had installed in that questionable relation as mistress of his household. She was a woman of ungovernable temper, and one day, venting her displeasure upon Jane, the wife of Anthony, soundly berated her, threatening her with immediate return to Kentucky, where she and her brood should be sold by their master and go "way down South in the cotton fields." That threat never failed of its effect on a slave. The poor negro woman stood transfixed as if doomed.

Anthony, too, heard the sentence, but it only roused him to a determined resistance. Driving to the neighboring village of Oakland, he told his sorrows to a crowd of listeners. Two men who heard his story were deeply stirred. They were brave and resolute, and firm in the faith that the "soil of Illinois should be made too hot for the foot

of a slave." One of them, Hiram Rutherford, a young physician, had emigrated from a point in Pennsylvania not far from Philadelphia; the other, Gideon M. Ashmore, hailed from the Duck River region of Tennessee. Though apparently antipodal in origin and early training, both these sturdy pioneers had the same inborn sense of justice, and both were thoroughly inoculated with what was then believed to be the virus of Abolitionism.

"We told the frightened old negro," related Dr. Rutherford to the present writer several years ago, "to return to the Matson place and bring his family down to us, spiriting them away, if necessary, during the night. Realizing the danger of such a proceeding both to us and to the slaves, we quietly invoked the aid of a few discreet and fair-minded friends. The time had now come for us to show our hands. We met at the home of Ashmore, and had our forces within hailing distance by nine o'clock that night. We waited till midnight, when the party, father, mother, and one child, on horseback, the rest on foot, arrived, all excited and panting from their hurried journey across the prairie. They remained with us several days, although Matson and one of his trusted friends, Joseph Dean, endeavored by alternate appeals and threats to win them from our protection. Failing in this, Matson resorted to the only alternative left: he executed before William Gilman, a justice of the peace, the affidavit required by the statute in such cases, and the negroes were thereupon taken to Charleston, the county seat, and lodged in the jail. This was just what we wanted—the intervention of the law. The trial before Squire Gilman consumed the better part of two days. Orlando B. Ficklin, a lawyer of recognized ability, consented to appear for the negroes, and Usher F. Linder, another attorney living in Charleston, was retained by Matson. After wrestling with the case for several days, Gilman, who was an exceedingly deliberate individual, decided that he had no jurisdiction as to the question of freedom, but, finding the negroes in Illinois, and therefore outside of a slave state without letters of freedom, he remanded them to the custody of the sheriff. Matson's plan, in case the magistrate gave him possession of the slaves, was to transport them to the Ohio River and thence across to Kentucky soil as speedily as possible. Joe Dean had a wagon and horses in readiness for the purpose, and I myself saw the rope with which it was proposed to tie the negroes in case they should resist or become unduly demonstrative. In anticipation of this move, however, Ashmore and I had certain men detailed to overtake the party the moment they drove beyond the town limits of Charleston."

The court records of Coles County, so far as they relate to this case, show that the negroes were confined in the Charleston jail during the better part of the fall of 1847, the sheriff, a facetious individual, having filed with the lawyers' papers a bill against Matson for "Keaping and Dieting five negrows forty Eight Days at thirty-seven cents each per day."

*State of Illinois) Robert Matson vs  
 Coles County ) A G Mitchell J P Sheriff  
 vs Keaping & Dieting five Negrows  
 forty Eight Days at 37 cents Each  
 per Day \$107.30  
 Kearying and Discharging 3.75  
 \$111.05*



What the peculiar items of diet were the records fail to state. Meanwhile litigation, as the result of this attempt to deprive the negroes of their liberty, did not cease. Matson was arrested and convicted on the charge of having lived in improper relations with Mary Corbin, his housekeeper; he, in turn, brought suit against both Rutherford and Ashmore, claiming damages for the detention of his slaves; and the latter filed a petition in the circuit court demanding their release by virtue of the writ of *habeas corpus*.

At this juncture, and in the midst of the cross-firing of these varied court proceedings, there is a pause in the play, and the man destined to reach immortality as the Great Emancipator steps into view. Here again we must let Dr. Rutherford — for he alone of all the participants still survives — take up the story:

Ashmore and I, having espoused the cause of the slaves, now fell under the shadow of Matson's wrath. His revenge culminated in a suit brought against us in the circuit court under the Black Law, demanding damages in the sum of twenty-five hundred dollars, or five hundred dollars for each slave. As soon as the summons was served on me I rode down to Charleston to hire a lawyer. I had known Abraham Lincoln several years, and his views and mine on the wrong of slavery being in perfect accord, I determined to employ him; besides, everyone whom I consulted advised me to do so. I found him at the tavern sitting on the veranda, his chair tuted back against one of the wooden pillars, entertaining the bystanders and loungers gathered about the place with one of his irresistible and highly-flavored stories. My head was full of the impending lawsuit, and I found it a great test of my patience to await the end of the chapter then in process of narration. Before he could begin on another I interrupted and called him aside. I told in detail the story of my troubles, reminded him that we had always agreed on the questions of the day, and asked him to represent me at the trial of my case in court. He listened attentively as I recited the facts leading up to the controversy with Matson, but I noticed a peculiarly troubled look came over his face now and then, his eyes appeared to be fixed in the distance beyond me, and he shook his head several times as if debating with himself some question of grave import. At length, and with apparent reluctance, he answered that he could not defend me, because he had already been counselled with in Matson's interest, and was therefore under professional obligations to represent the latter unless released. This was a grievous disappointment, and irritated me into expressions more or less bitter in tone. He seemed to feel this, and even though he endeavored in his plausible way to reconcile me to the proposition that, as a lawyer, he must represent and be faithful to those who counsel with and employ him, I appeared not to be convinced. I remember retorting that "my money was as good as any one's else," and although thoroughly in earnest I presume I was a little too hasty.

The interview and my quick temper, I am sure, made a deep impression on Mr. Lincoln, because, a few hours latter, he despatched a messenger to me with the information that he had sent for the man who had approached him in Matson's behalf, and if they came to no more decisive terms than at first he would probably be able to represent me. In a very brief time this was followed by another message, that he could now easily and consistently free himself from Matson, and was, therefore, in a position, if I employed him, to conduct my defence. But it was too late; my pride was up, and I plainly indicated a disinclination to avail myself of his offer. Instead, I employed Charles H. Constable, a lawyer who had emigrated to Illinois from Maryland, a classical scholar, fluent and ready in debate, and of commanding physical presence. Ashmore made terms with Orlando B. Ficklin, a Kentuckian who had already won considerable renown as a lawyer, and had been more or less conspicuous in politics.

Strangely enough neither of these men, by reason of early surroundings, had evinced any decided opposition to slavery ; in fact, one of them, in some respects, upheld it, and the other leaned so far in his prejudices toward the South, slaves and all, that he was arrested for uttering sentiments disloyal to the United States during the late war.

The court records show that the decision in the *habeas corpus* proceeding, which was tried before Judges Wilson and Treat, of the Supreme Court of the State, who had come down to Charleston for that purpose, virtually disposed of the suit for damages. The case was one of far-reaching importance, and lawyers and people generally were interested in the outcome. In his argument Mr. Lincoln demonstrated his instinctive honesty and his signal weakness in upholding a cause which failed to meet the approval of his conscience. "I remember well," is the testimony of one of his colleagues, "how he presented his side of the case ; 'This then,' he explained, 'is the point on which this whole case turns : Were these negroes passing over and crossing the State, and thus, as the law contemplates, *in transitu*, or were they actually located by consent of their master ? If only crossing the State that act did not free them, but if located, even indefinitely, by the consent of their owner and master, their emancipation logically followed. It is, therefore, of the highest importance,' he continued, 'to ascertain the true purpose and intent of Matson in placing these negroes on the Black Grove farm.'"

It is plain that this statement of Mr. Lincoln *gave his case away* ! In the face of these admissions, no proof beyond the testimony of an ignorant, worthless fellow, who was easily and ruthlessly impeached, was or could have been produced to sustain the theory that the slaves were not located or domiciled, but were only *in transitu*. Mr. Lincoln laid stress on the fact that when Matson placed a slave on his Illinois farm, he declared publicly — the attesting witness being, generally, an irresponsible farm hand — that the settlement was not permanent, and that no counter-statement had ever been made in public or private by him. But even if true, this was not tenable ground, for Mr. Lincoln knew that these declarations of Matson were made with a design to be used in future for his own benefit, and therefore were of no more significance or weight as evidence in the case than any other verbal statement made in his own interest. Mr. Lincoln was pitifully weak and half-hearted in his prosecution of the case.

His associate, Linder, both eloquent and bold, went a bowshot beyond him, and, by contending that the recognition of slavery by the Federal Constitution was coupled with the corresponding obligation of protecting slaves as well as other chattels wherever the Constitution obtained and had sway, enunciated a doctrine that grated harshly on



the ears of people so far removed from the presence of actual slavery as were the residents of Coles County, Illinois.

"We were forced to rely," related Mr. Ficklin, one of the counsel for the defence, several years since, "on the Ordinance of 1787 and the Constitution of Illinois; but nothing helped us so much as the decisions of the English courts. The English people were unquestionably more obstinately hostile to African slavery at that time than were we on this side of the water, and the decisions of their courts, therefore, betokened a broader and more liberal spirit than ours. I shall never forget how Lincoln winced when Constable quoted from Curran's defence of Rowan: 'I speak in the spirit of the British law, which makes liberty commensurate with and inseparable from British soil; which proclaims even to the stranger and sojourner the moment he sets his foot upon British earth, that the ground on which he treads is holy and consecrated by the genius of universal emancipation. No matter in what language his doom may have been pronounced; no matter what complexion incompatible with freedom an Indian or an African sun may have burnt upon him; no matter in what disastrous battle his liberty may have been cloven down; no matter with what solemnities he may have been devoted upon the altar of slavery; the first moment he touches the sacred soil of Britain the altar and the god sink together in the dust; his soul walks abroad in her own majesty; his body swells beyond the measure of his chains that burst from around him, and he stands regenerated and disenthralled by the irresistible genius of universal emancipation.' Even Linder's trenchant wit and fervid eloquence — and no man more completely moved others by his language than Usher F. Linder — failed to keep the court from drifting around to the position Constable and I had taken. Our triumph was complete, and we had every reason to feel that our enthusiasm and zeal had not been wasted in advocacy of an unjust or unrighteous cause."

The further history of this case, as obtained from the decree of the court, signed Oct. 16, 1847, shows that Jane Bryant and her four hapless children "are discharged from the custody as well of the Sheriff as of Robert Matson and all persons claiming them by, through, or under him, as slaves, and they shall be and remain free and discharged from all servitude whatever to any person or persons from henceforward and forever."

We have the testimony of Dr. Rutherford in support of the fact that, "after the trial, which ended Saturday night, Matson left the country, crossed the Wabash river on his way to Kentucky, evaded his creditors, and *never paid Lincoln his fee.*" The suit for damages against Rutherford and Ashmore, in the prosecution of which Thomas A. Marshall, a lawyer in Charleston and a member of the Marshall family famous in Kentucky, was meanwhile joined with Lincoln and Linder, was, on plaintiff's motion, dismissed; and the following morning, after a wholesome breakfast, Lincoln, "mounted on his old gray mare, ruefully set out for the next county on the circuit. As he threw across the animal's back his saddle-bags, filled with soiled linen and crumpled court papers, and struck out across the 'measureless prairie,' he gave no further sign, if he experienced it, of any regret because, as a lawyer, he had upheld the cause of the strong against the weak."

A few days later old Anthony Bryant, determined to leave the scene of his troubles, converted what effects he had into cash, and

Rutherford and Ashmore collected by subscription from sympathizing friends about Oakland money enough to transport the now liberated slaves to the Mississippi river. Ashmore wagoned the brood across the country, making stops at Springfield, Jacksonville, and other places, where more money was contributed by persons whose sympathies were awakened by the story of their oppression and struggle for freedom. Strange enough, one of the donors at Springfield was Lincoln's law-partner, William H. Herndon. Arrived at Quincy, Ashmore turned back; thence the negroes floated down the Father of Waters to New Orleans, at which point, being freedmen, they were to set out across the Atlantic for their destination in Liberia.<sup>1</sup>

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<sup>1</sup> "After the trial ended and the slaves had left for Liberia, I was again in the hospitable home of my old friend Ashmore. Isaac Rogers also was present. He had borne a noble part in the trial. Taking from his pocket a bank-bill and extending it to Mr. Ashmore, he said, 'Here, Matt, is the balance due from me on account of the Matson slave trial, and it does me more good to pay it than any bill I ever met in my life, because now I am sure I have helped some poor slave to gain his liberty.'" — *From unpublished MS. by Rev. John Wood.*